

****NOT FOR PRINTED PUBLICATION****

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

CLARENCE WRIGHT

§

VS.

§

CIVIL ACTION NO. 9:18-CV-120

TEXAS DEP'T OF CRIMINAL JUSTICE,
ET AL.

§

**ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ACCEPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Clarence Wright, a prisoner confined at the Polunsky Unit of the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. § 2000cc, against TDCJ and Bryan Collier.

The Court ordered that this matter be referred to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge. The Magistrate Judge recommends dismissing the claims against TDCJ.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and the pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation.

The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration of all the pleadings and the

relevant case law, the Court concludes that the petitioner's objections lack merit. The Eleventh Amendment bars a citizen of a state from bringing an action in federal court against his own state, or against a state agency or department. *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89, 98-99 (1984). Although plaintiff is barred from suing TDCJ because it is a state agency, he may pursue his claims for declaratory and injunctive relief against defendant Collier in his official capacity. *See Mayfield v. Texas Dep't of Criminal Justice*, 529 F.3d 599, 605 (5th Cir. 2008).

ORDER

Plaintiff's objections (docket entry #29) are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge (docket entry #28) is **ACCEPTED**. The Texas Department of Criminal Justice is **DISMISSED** from this action.

So ORDERED and SIGNED, Jan 31, 2021.



Ron Clark
Senior Judge